DOCUMENT RESUME

ED 187 207 HE 012 629

AUTHOR Pfnister, Allan O.
TITLE Development of the American System of Higher Education: The Two-Sector Theory. ASHE Annual Meeting 1980 Paper.
PUB DATE Mar 80
NOTE 33p.; Paper presented at the Annual Meeting of the Association for the Study of Higher Education (Washington, DC, March 4-5, 1980)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS *College Role; Colonial History (United States); *Educational History; *Government School Relationship; *Higher Education; *Private Colleges; *State Colleges; State Government; Trend Analysis
IDENTIFIERS *ASHE Annual Meeting 1980

ABSTRACT

The evolution of the two-sector theory of public and private colleges in the American system of higher education is discussed. The analysis covers developments from the colonial period to the present. The granting of a charter to the college and creation of a board of trustees were critical moves that signified the mixed public/private nature of the college. The alliances between government and colleges that had developed during the colonial period continued into the national period. The efforts of the states to become more directly involved in the management of the established institutions and the efforts to develop new state or public institutions are considered. The role of colleges as the colonies established themselves as states and wrote new constitutions is examined. During the second quarter of the nineteenth century the two sectors began to take on identifiable characteristics. The several states had created "literary funds," in large part as a result of the federal land grants, and older colleges competed with common schools for state monies. Other colleges were also being established, both independent and state-linked. Demands were also growing for education emphasizing the practical and less on the classics that still dominated the older colleges. Distinctions between public and private sectors increased in particular in the last quarter of the nineteenth century. Developments in specific states, including the role of the state in higher education, are traced. It is suggested that a diversity of institutions is important in the United States. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

Development of the American System of Higher Education: The Two-Sector Theory[1]

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Allan O. Pfnister

University of Denver

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Allan O. Pfnister

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

ED187207

Research and orderly discussion of social phenomena requires some agreement on categories into which the individual activities, events and instances can be grouped. Some types of inquiry permit indentification of categories and standardization of terms more easily than others. Study of American postsecondary institutions, however, is not a type of inquiry in which phenomena are easily classified; indeed, American higher education is not infrequently labeled a "nonsystem." Yet, study of these institutions has generated a number of classifications. Each of the classifications serves its own particular function, and no one is wholly acceptable to all persons conducting inquiries in the field; the particular set of terms employed depends largely upon the purpose of the inquiry. The so-called Carnegie classification which groups institutions into five broad types, for example, appears more useful for some types of studies than for others.[2] One set of distinctions that appears with increasing regularity in the literature is that based upon ownership and control, whereby most postsecondary institutions can be identified as "public" or "private." Even here the tendency is to move away from the term "private" to a more general term of "independent" as is reflected in the name of the relatively young organization, the National Association of Independent Colleges and Universities--initially a lobbying and now a study-research-lobbying-advocacy-membership organization for non-tax-supported institutions.

Classification of institutions as "public" or "private" seems, however, to be reasonably accepted, even if the terms carry a measure of ambiguity. The U.S. Office of Education has since 1895-96 reported enrollments in colleges and universities according to "public" and "private" control. Prior to that date, however, for the first twenty years of its existence, the Office (or Bureau) made no distinction between public and private control. Indeed, the basic statement on enrollment in 1895-96 shows no such distinction, but following the summary table, the Commissioner states that preceding tables include the number of students in all classes of higher institutions, public and private, but "in order that some idea may be formed as to the number of students receiving instruction in undergraduate and graduate courses of public institutions--that is, institutions founded or controlled by the State or municipality--the table has been prepared, giving the number of students pursuing such courses at the following-named institutions . . ."[3] There follow the names of 88 institutions identified as public institutions. The total number of institutions reporting for the year was 484. Total enrollment in all institutions was

HE012 629

139,611. Of these students, 26,296 were enrolled in public universities, colleges, and schools of technology.

In much of the current writing about American postsecondary education, it is assumed that the distinction between public and private higher educational institutions is deeply embedded in history and that the concept of the dual system, only recently challenged, has been a significant factor in the development of the higher educational enterprise since the beginning of the Nineteenth Century. There is good evidence, however, that the distinction was not clearly accepted until the end of the Nineteenth Century, at a time the Office of Education was moved to make the distinction of the reporting of statistics.. While the evolution of the dual system, or two sectors (and it was an evolution) may have had a significant impact upon the way which higher education in the Twentieth Century has developed and may be significant for the continuation of certain characteristics of postsecondary education in the latter decades of the Twentieth Century, the concept is by no means a part of the original makeup of American higher education. It is a concept, as I have said, that has evolved. An understanding of how the concept evolved may be helpful to the policy-makers who are engaged in addressing the issues that have been generated by the existence of the present dual system.

I. The Policy Issue: Continuing Viability of a Dual System

Serious questions regarding the respective roles of public and private higher education probably began to arise with the expansion of the postsecondary educational enterprise following the conclusion of the Second World War. The President's Commission on Higher Education was established in July 1946 and issued its report a year and a half later, in December 1947. Charged with the "task of examining the functions of higher education in our democracy and the means by which they can best be performed," the Commission called for a rapid expansion in enrollments of higher education based on the principle that education through the fourteenth grade should be made available, tuition-free, as an extension of the common schooling. The Commission set certain goals and stated that to meet these goals, a greater variety of institutions and programs than existed at that time would need to be created and implied that the major portion of this expansion would have to be carried by the public sector.[4] Enrollments, even in 1950, were almost evenly divided between public and private institutions, although the enrollments in public colleges and universities had begun to move ahead.[5]

In the mid-1960s, as states revised plans for meeting what was still a period of growth in enrollments, even as the first suggestions of the financial crisis began to emerge that dominated the thinking of the decade of the 1970s, many of the states turned their attention also to the place of private colleges and universities in state-wide planning. A number of studies appeared between 1967 and 1970 calling for more recognition of the place of the private sector in state-wide development, and frequent reference was made to the historic

dual structure of American postsecondary education.[6] In the late 1960s and through the entire decade of the 1970s increasing attention was given to exploring the meaning of the dual system and to raising questions about its continued viability. At the same time, below the surface of these discussions there were emerging signs of a "persistent potential conflict between the public and private sectors." Gerald Roschwalb, observing the weekly meetings of governmental relations representatives of the major institution-based associations in Washington, D.C., refers to this growing conflict, "While some competition for students has existed for decades, the expanding number of students and sources of funding for both sectors enabled them to operate cooperatively in the same marketplace. In recent years, those bases for cooperation have been undermined. All projections point to a seriously declining constituency of students and a dollar crunch--federal, local and private--is tangible at a time when operating costs are soaring."[7]

Under the conditions postsecondary education in American must face in the 1980s the distinction between public and private becomes more critical, and while there seems to be little debate over the reality of the dual structure, i.e. the existence of different two sectors, the debate is sharpening regarding the respective functions of the sectors and the appropriate use of scarce resources among them. The report of the Carnegie Commission, The Capitol and the Campus, observes that some of the traditional distinctions between public and private institutions may be lessening but that the continued presence of the private sector is critical. The report states, "Neither qualitative measures nor lists of distinctions tells the real importance of the private sector to American higher education . . . Because of the interaction of public and private segments, higher education in the United States has become a more dynamic evolving force, and as a system, has avoided many of the major bureaucratic problems so frequently inherent in more centralized systems."[8] The Commission goes so far as to recommend that in those states in which a strong private sector does not exist, states could well consider the possibility of providing something similar to or equivalent to land-grants to responsible groups to develop new private institutions.

The Carnegie Council on Policy Studies in Higher Education calls attention to the importance of maintaining a private sector, particularly since that sector still maintains a degree of independence of action. While private institutions have been enrolling a decreasing proportion of the student population, in 1976-77 there were actually more private institutions than there had been at any other time in the history of the United States, and the total enrollment was the highest that it had ever been. The Council characterizes the private sector at its best as a group of institutions that maintained independence of governance, expressed diversity, maintained long-standing traditions that are meaningful to students and alumni, provided balanced competition with the public sector, was strongly oriented to liberal learning, with 95 per cent of all liberal arts colleges being private, maintained standards of academic freedom, continued to provide attention to the individual student, contributed academically able students and faculty members to higher education generally, contributed to the cultural life of many small towns. The Council calls for the preservation and strengthening of private institutions in ways that would protect the traditional autonomy of these institutions.[9]

Development of the American System of Higher Education: The Two-Sector Theory

The Brookings Institution report of 1978 observes that the growth of private higher education is "one of the most durable and impressive success stories in the history of American domestic institutions," and notes that in the mid-1970s the private sector has more colleges and universities, more students and more professors than ever before, that many of its campuses enjoy "well deserved reputations for educational excellence." Yet, the report carries as the title of the initial section, "An Uncertain Future," and suggests in the general retrenchment higher education is going to experience between 1980 and 1993, more of the impact will be experienced in the private sector than in the public sector. The report documents the pressures and problems that the private sector will be facing, and yet the overall conclusion of the volume is, "Although the existence of a dual system of higher education causes unending headache for policy makers and accounts for the bulk and complexity of analyses such as this one, we nevertheless conclude that society cannot satisfactorily attain its educational objectives by relying on public institutions alone. If higher education's private sector did not already exist, it would be necessary to create it. Since it does exist, it is necessary to find appropriate means of sustaining it."[10]

The overall scenario appears to be something of the following: (1) The distinction between public and private higher education is a fact of the structure of American higher education. (2) The existence of this distinction has been an important factor, indeed a critical factor, in strengthening the American system. (3) It is important to maintain this distinction; in the words of the Brookings Institution, "If higher education's private sector did not already exist, it would be necessary to create it." (4) As the resources available for the support of higher educational institutions contract relative to the needs, there is serious question whether a strong private sector can be maintained; indeed, there are questions regarding the possibility of maintaining certain portions of the public sector. (5) Unless some kind of intervention in the form of public assistance is provided, the private sector will be reduced in size and influence. (6) But if public funds are provided for private institutions, public control inevitably follows, and the significant characteristics of the private sector will be inevitably compromised.

I think that there is general agreement that these are the elements in the scenario, but I am not at all sure that there is by any means acceptance of the logic of these propositions. The elements appear in the innumerable articles debating the place and future of private education within American higher education, but conclusions differ. The public policy questions turn on the way one identifies the respective roles of the constituent parts of the American "system" and the extent to which one wants to maintain, or even enhance, the present system in a time of limited or declining resources.

While the ultimate decisions on the shape of the system are likely to be made on the basis of political compromise, some knowledge of the evolution of the system may give added perspective on the present and future place of the two-sector system. The situation in the United States is not unlike (although the stages of development are different) the concerns being expressed in the United Kingdom regarding the future of the binary system in England, Scotland, and Wales.

II. Establishing the System: The Alliance of Private Initiative and Public (Government) Support

During the Colonial Period (until 1776) the settlements in America established only nine permanent collegiate institutions, although the roots of a few other institutions which subsequently developed into colleges were also set during this period. The process followed during the 140 years from 1636 to 1776 in significant ways set patterns for the establishment and maintenance of higher educational institutions that shaped these institutions well into the Twentieth Century and influenced thoughts about collegiate education well into the 1970s.

The essential force in the founding of a collegiate school during the Colonial Period was almost always a group of local citizens motivated by special concerns to propose within or to a colonial legislature (assembly, court, governor) or the English Crown that an educational institution should be established. As is well known, the American colleges did not evolve out of congregations of scholars and students as did Paris or Oxford or Cambridge, nor by the fiat of a king or prince as in the later German institutions. Harvard was authorized by the General Court, and a committee of Overseers was asked to see to the details of the establishment. William and Mary required the efforts of the Anglican clergy, in particular of James Blair, and the Visitors appointed by the colonial legislature. Ten principal ministers of the Colony of New Haven secured a charter from the General Assembly of that colony. Princeton was the creation of dissenting Presbyterians, six of whom were graduates of Yale and one a graduate of Harvard. Columbia was promoted by trustees representing three religious denominations. The University of Pennsylvania grew out of an academy established by twenty-four citizens of Philadelphia. Brown, Rutgers, and Dartmouth also depended upon the initiative of the first trustees who secured charters from their colonial governments. In each instance an alliance of sorts between the trustees and the colonial government constituted the basis for the institutions. Private citizens and colonial government cooperated in various degrees in the founding of these institutions.

Provisions of the several charters differed in the degree of actual or implied control over the several institutions created under the charters. Yet, when the colonial legislatures endowed these institutions with funds and property, the grants were gifts to a non-political body. This distinction is important, Brody observes, for it gave to the founders of the institutions the legal basis for arguing that once public grants are made to a private body, they are irrevocable by legislative power.

> Public grants to educational corporations were quite common before the Revolution. The members of the colonial legislatures were often of the same church, and, impelled by religious motives, supported their church and its academies of learning with public funds. Most of the colleges and academies were supported in this manner in all of the New England states, but no loss of the private control and independent corporate action was suffered.[11]

Development of the American System of
Higher Education: The Two-Sector Theory

But quite apart from the legal interpretation of the relationship between college, state, and church, it seems clear that in these beginnings it took combined efforts to create and maintain any semblance of education. An early historian of the development observes:

> Almost without exception the colonial governments, either through chartered rights and privileges or by means of self-government, made provision for education by granting privileges and charters to private schools, or by establishing schools and colleges by legislative enactment to be supported in part by taxation. However, it required the united efforts of the colonists, through the church, the Government, and private benevolence, to keep learning from being 'buried in the grave' of their forefathers.[12]

John S. Whitehead uses the term "alliance" as a way of describing the relationship.[13]

Yet within these alliances there were certain general principles that appear to have been operating. Each of the institutions, while responsible in various degrees to the legislature, looked for its day-to-day decisions to a board of trustees. Representation from the legislature varied, but the trustees were essentially a separate group of individuals directly responsible for the development of the institution. Moreover, these trustees, with the exception of the president, who might have ex officio status, were also independent of the teaching staff of the institution; they were laymen in relation to the teaching staff of the institution. The use of the lay board of the trustees provided a degree of independence, later in the history to be tested, to each of the institutions. Irrespective of the degree of the respresentation on the part of the legislature, the creation of the board of trustees, by whatever name, clearly implied a degree of separation between institutions and legislature.[14]

Even with the degree of separation, however, it was assumed by those who served as trustees that the state had some responsibility for the support and maintenance of the institutions and that the institutions had some responsibility for training of leaders for the state. The destinies of the colleges and the colonial, later the state, government were intertwined. The degree of inter-relationship finally became a point of contention, but well into the second half of the Nineteenth Century colleges laid claims upon the state, and the state laid claims upon the colleges. In the beginning there was little hesitation on the part of the individuals promoting the college to seek continuing assistance from the state and little hesitation on the part of the state to point out the responsibilities of the college to the government.

The granting of a charter to the college, first by the colonial governments (or Crown) and subsequently by the states was a critical act, for the granting of this legal instrument "signified the establishment of a self-perpetuating body of men, in some cases allied with or supervised by public officials, who could receive and hold endowments made by individuals and act

as agents of the state in awarding degrees." The act of granting a charter and creating a board of trustees was a critical move, because if the colleges "had been mere extensions of the legislature receiving annual appropriations, no charter would have been necessary."[15] Indeed, the granting of the charter signified the mixed public/private nature of the colleges.

The sense of social independence that characterized the alliances between college and state was deeply ingrained in the American psyche and reflected in many respects the relationship that developed between the colonies and the respective authorities in England. No small contributor to the sense of independence the colonies held toward England, long before 1776, was the comparatively poor communication that the colonial governments had with the English agencies. Until the middle of the Eighteenth Century letters between the colonies and England depended upon "the haphazard good offices of friendly merchant vessels," and while this kind of communication "might be frequent enough to preserve ties of kinship, language, literature and craftsmanship, it was too feeble and irregular to serve as the channel of government."[11] The governor of North Carolina, for example, would normally receive letters by way of Virginia, which in turn often received its mail by way of New York. In the summer of 1746 Governor Johnson of North Carolina received word from the Board of Trade in London complaining that it had received no letter from him for three years. The letter from London had been dispatched in June of the previous year. Even Boston, with better port facilities, was out of communication for months. Letters written in the fall would not be delivered to London before April or May of the following year.[17]

Such conditions meant that for the conduct of local affairs the colonial governors and legislatures simply had to proceed with their own decisions, and as a result each of the colonies became a relatively independent center of government in America. The dispersion of power was not planned; it simply grew in response to the necessity of the day. The War for Independence, accordingly, was an expression of thirteen separate regional governments affirming their powers against the central authority in London. Each colony was asserting its right to govern itself. The Declaration of 1776 stated that "these United Colonies are, and of right, ought to be free and independent States," and the Declaration of Independence was "The unanimous Declaration of the thirteen united States of America."[18] Independence brought into existence not only one nation but thirteen, and it required a Civil War to establish the unity of the nation. The Constitution, adopted only after a struggle, stated that a league of states had become a federal nation, but in the decades that followed, the meaning of having a federal government had to be worked out.

Even as the states in the developing nation were largely independent and autonomous decision-making entities, education within the states similarly took on a degree of independence that allowed colleges at the same time to call upon their respective governments and to exercise, or try to exercise, independence of action.

That these first institutions of higher education tended to refer to themselves as "colleges" is worthy of note. In England the distinction

between "college" and "university" had become significant. A college was an independent and private corporation, and a university was a public corporation in that it derived its degree-granting authority from the Crown. Oxford and Cambridge, until the University of London came into existence in the early Nineteenth Century, were the only degree-granting agencies in England. In the colonies and the emerging United States of America, while the terms "college" and "university" did not seem to be as clearly fixed, the implication of the term "university" was that it was a degree-granting unit under more direct control of the colony or state. A college could be viewed as an independent entity. When the new States of the United States began to develop systems or attempted to assume more responsibility and control over existing institutions, they tended to turn to the term "university." Dartmouth College was transformed into Dartmouth University and the College of Philadelphia became the University of Pennsylvania. King's College became a portion of the University of the State of New York. Harvard began to be referred to as the University of Cambridge. And in the famous Dartmouth College case, one portion of the appeal of the trustees rested heavily upon identifying the institution as a college and thus as an independent and private corporation. Yet these several independent collegiate institutions had already taken responsibility to award degrees, a privilege that in England was reserved to the university.

III. Growing Public (Government) Initiative (Intervention): Efforts at Reshaping the Alliance

The alliances between government and colleges that had developed during the colonial period continued into the national period, but they faced a number of tests. As the erstwhile colonies established themselves as states and as most of them wrote new constitutions, the place and role of education almost inevitably came under consideration. The Constitution of the Commonwealth of Massachusetts in 1780 referred directly to Harvard and in Section Two stated:

> Wisdom and knowledge, as well as virtue, diffuse generally among the body of the people, being necessary for the preservation of their rights and liberties, and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of the Legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them, especially the University of Cambridge, public schools, grammar-schools in the towns; to encourage private societies and public institutions, (by) rewards and annuities, for the promotion of agriculture, arts, sciences, commerce, trades, manufacturers, and the natural history of the country, etc.[19]

Other constitutions were less explicit. The period from the conclusion of the War for Independence to 1819 was a time for developing the ground rules under which education would take shape within the new nation. During this time a score of new institutions came into existence, and the prevailing pattern, after attempts to establish both a national system and state systems, was to fall back to the colonial pattern of predominantly local initiative. But initially, as the political ties with England were cut, there was an upsurge of sentiment that challenged the past procedures.

> The American Revolution transformed thinking on education, and on many other matters, and a legal independence of states, followed by the creation of the New Federal government, raised new questions about what the institutional settings of American higher education should be. Should education be left in the hands of the sects? Should the states which had already begun to enlarge roles as sponsors of education in the age of revolt against the established churches make themselves the primary and sole agents promoting colleges? Should the New Federal Union create its own university as a standard setter and cultural center? If many competing agencies work in the educational field, would they not hamstring each other and create a collegiate chaos? How were the small and rather limited colleges of the colonial period to be enlarged into true universities, centers of general advanced study?[20]

Growing out of these concerns were three approaches to the development of higher education during the early national period. First of all, there was the move on the part of the civil state to assume a more direct involvement in the management of higher education as exemplified in the advancement of the idea of a federal university. Secondly, a number of individual states sought to enter more directly into education by establishing their own institutions. And in the third place, there was an effort at more direct involvement of the several states in the control of established institutions. While not an unimportant part of the development, the efforts toward the establishment of a national university will not be explored in this essay. Rather I want to turn to efforts of the states to become more directly involved in the management of the established institutions and to the efforts to develop new state or public institutions.

In terms of the first approach, the old alliances between college and government were tested in a number of ways. New York, Pennsylvania, and New Hampshire in particular moved to redefine the conditions of the alliance. In 1784 the legislature of New York renamed King's College "Columbia," and made it a division, albeit an important division, of the new state university. Three years later the college was returned to a self-perpetuating board of trustees, largely because the other interests of the state perceived it as becoming the dominant and controlling unit of the University, but the new name remained. In Connecticut the conflict between state and college led in 1791 to the Assembly appointing a Visiting Committee to look to the affairs

of the college. This step led in turn to limited state representation which lasted for some 80 years, when the state officials were replaced by Yale alumni in 1872.

In Pennsylvania the efforts were even more direct; not only was the name of the college changed, but a new institution was created. In 1778 the Pennsylvania Assembly passed "an Act for suspending the power of the Trustees of the College and Academy of Philadelphia for a limited time," and made the Act retroactive to September 1, 1777. With the withdrawal of the British in 1778, a committee was appointed to look into the state of the college and report back to the General Assembly. In November 1779 a newly elected Assembly passed an act "to amend and alter the charter . . . conformable to the Revolution and to the Constitution and Government of this Commonwealth, and to erect the same into a university." Finally, in 1789 the status of the old College of Philadelphia was reinstated, and in 1791 the state university and the college were merged into a single board, with the only state representative being the governor. Effectively the institution, titled from that time as the University of Pennsylvania, became a continuation of the earlier private foundation.

In Massachusetts, in 1810 the legislature altered the constitution of the Board of Overseers, overthrew that act in 1812, passed another act in 1814, and after 1823 essentially left Harvard as a private and independent institution. In Virginia, William and Mary emerged from the war as a private college, in spite of the efforts of Thomas Jefferson to change it into a state institution in 1779; but in 1906, more than 100 years later, the institution came under the control of the State of Virginia and is today a state institution.

The most celebrated test of the alliance was that in New Hampshire between Dartmouth College and the State of New Hampshire. From 1776 to 1782 the portion of the territory in which Dartmouth College was located was at various times a part of the state-in-process-of-being-created, Vermont, and part of the time back in New Hampshire. During this period of time John Wheelock, the successor of his father Eleazar, campaigned in both states on behalf of the college. At one point he received a substantial grant of land from Vermont, and since the 1777 constitution of Vermont referred to "one University in this State ought to be established," he bent every effort to insure that Dartmouth College would be the favored institution. In 1788 the Trustees of Dartmouth made the Governor of New Hampshire an ex officio member of the board, and in 1789 the state made a grant of 42,000 acres to the college. In 1807 the College received another grant in land from the state, and the college itself had early proposed a certain state official to be added to the board of trustees, although the required change in the college charter was not affected.

What became known as the Dartmouth College Case developed out of a dispute between John Wheelock, second president of the College, and the trustees. A series of disagreements erupted finally in 1814 in the action of the trustees denying Wheelock the right to teach the senior class. In taking this action the trustees were also effectively removing John from the office of

the president. Wheelock appealed to the state legislature for support. The following year the trustees appointed a committee to investigate the activities of the president, and the state legislature likewise began its investigation. In August the trustees dismissed Wheelock and appointed Francis Brown as the new president and inaugurated him on September 27, 1815. Elections in New Hampshire returned William Plumer, who had earlier served in that position, to the governorship. In a message to the legislature in June 1816 he stated that changes should be made in the charter of the college which had "emanated from royalty" and contained "as was natural it should, principals congenial to monarchy."[21] The legislature passed a bill, "An Act to Amend the Charter and Enlarge the Corporation of Dartmouth College," and the Governor signed it into law on June 27, 1816. The Act created Dartmouth University, incorporating into the new structure the original trustees, augmented by nine additional persons, provided for a board of overseers, and required the trustees and officers of the college to swear allegiance to the Constitution of the United States and the Constitution of New Hampshire. The original trustees refused to cooperate, did not appear at the meeting of the board of Dartmouth University in August, and Plumer moved to convince the legislature to pass the act fining the original trustees $500 each if they continued to act in opposition to the act creating Dartmouth University. The trustees took their case to the New Hampshire courts.

The New Hampshire Superior Court found on behalf of the state, and the trustees moved the case to the United States Supreme Court. In the appeal before the federal court, the College emphasized that Darmouth was an eleemosynary institution, a charity created to distribute funds provided by private donors. The state argued that the institution was a public corporation and under the jurisdiction of the legislature which could, as required, change the charter of the institution. Before the Supreme Court Daniel Webster also argued that a private corporation that was Dartmouth College had been created by a charter between the trustees and the colonial government and that the state government was the successor to the colonial government and thereby responsible for maintaining the earlier agreement. It was on the principle that Dartmouth was indeed a private corporation and that the charter was a contract under the terms of the Constitution of the United States that Chief Justice Marshall in 1819 handed down the decision in favor of the trustees.

The trustees had established their case, but within a few years the college was again requesting financial assistance from New Hampshire. The state was moving toward the establishment of another institution, a state university, and in 1825 even introduced another bill to amend the charter of the college. Then in 1827 the senate passed a bill to establish New Hampshire University, but it failed to pass in the House. Dartmouth did not receive any further assistance from the state, however, until the Morrill Act in 1862, when for a time Dartmouth in effect became the land-grant college for the state of New Hampshire.

It is suggested by many historians of American higher education that the Dartmouth College Case of 1819 marked a turning point in the affairs of

the American system. Echoing Donald Tewksbury, Frederick Rudolph even states that the decision of the Supreme Court, "by discouraging public support for higher education probably helped to check the development of state universities for half a century."[22] This is probably an overstatement, and while one must never underestimate the significance of the case, it did not in any sense destroy the college-state alliances already formed, even in New Hampshire. As already noted, in a few years Dartmouth again applied to the state for assistance. And Daniel Boorstin suggests that the Dartmouth College Case, rather than emphasizing separation of state and college instead emphasized the concept of community control. While responsibility for the College was restored to the trustees, the trustees represented public-spirited citizens who wanted to maintain their own interests and concerns. Colleges such as Dartmouth were neither public nor private but more properly community institutions.[23]

Boorstin contends that in America a college "was of a piece with the community emphasis which already distinguished our civilization," and distinctions between man and the state sharply drawn in Europe during the Nineteenth Century were irrelevant in America. The independence of private institutions "which would arouse passion from time to time in the Twentieth Century, was not founded in the tradition or history of American institutions."[24] As America expanded into the West, the tiny communities planted here and there almost inevitably were referred to as "cities," more in expectation of the future than in reflection of actual status in the community. But an important way of proving that the new settlement would soon be a great metropolis was "to provide it as quickly as possible with all the metropolitan hallmarks, which included not only a newspaper and a hotel, but an institution of higher learning."[25] By 1851 one person was referring to America as "a land of colleges."[26] And so it seemed, because no community was actually complete without its college or university. Before 1870 some eleven colleges had been established in Kentucky, twenty-one in Illinois, thirteen in Iowa, and corresponding numbers in other localities. Less than twenty percent of these colleges survived, and by 1860 over 700 colleges had been created and had gone out of existence. Most of these institutions were legally owned and controlled by boards of trustees drawn from the local community, and in various ways they sought support from the community and state.

The second approach was to attempt to develop new "state" institutions. While the states maintained their alliances with the older colleges, some were also taking the initiative in founding new institutions. Perhaps "initiative" is not the proper word, because with few exceptions the new institutions were proposed by and developed by interested groups of citizens who followed much the same process that had brought Harvard and the other colonial colleges into existence. The state legislature was only responding, as it had in the past, to the initiative of citizen groups. The new colleges were founded by groups "of men who wanted the initial support or land grant protection of the state in organizing a quasi-autonomous institution," and the founding groups could be referred to as state-oriented, "only in that they represented the interests of higher education for a particular state rather than for a particular religious sect," and it probably would be more appropriate to refer to these institutions as "non-denominational" or "civil"

rather than as "state."[27] The alliances between these institutions and the state were not too greatly different from those formed between the so-called private institutions and the new states. The interest was a mutual one. The colleges needed the support and protection of the states, while the states were concerned that these institutions provide the education of the future legislators and leaders within the state.

Eight so-called universities were established between 1785 and 1820. Five of these were within states in which no other college or university was located, and three were in states in which earlier colonial colleges had been established. The first of the eight was the University of Georgia, founded in 1785 with a state endowment of 40,000 acres of land. However, control of the institution was given over to a self-perpetuating board of trustees supervised by a state-appointed board of regents. The support provided by the state was basically no different from the kind of support sporadically offered to the so-called private institutions already in existence, and for many years the state assumed no direct financial responsibility for the institution.

In 1791 the University of Vermont was chartered by the state and received the state lands that had been set aside for education under the Ordinance of 1787. More actual financial support, however, came from private citizens, and the trustees, appointed by the state, became self-perpetuating.

The bill of sale to the Ohio Company provided that at least two townships were to be reserved for the purpose of endowing a university, and when Ohio became a state in 1803, the legislature assumed responsibility for these two townships, plus a third which had been granted to John Symmes who had purchased a large tract of land in the territory on conditions quite similar to those set by the Ohio Company in 1787. Out of these grants came Ohio University at Athens in 1804 and Miami University at Oxford in 1809. The first was managed by a state-appointed board of trustees, and the second operated under a self-perpetuating board. Neither of the institutions received financial support from the legislature beyond the funds realized from the land-grant sales.

The University of North Carolina was established in 1789 under a self-perpetuating board of trustees. The state granted to the institution the right to attempt to collect certain funds due and owing to the state. When the trustees were successful in collecting funds, the legislature subsequently tried to repeal the act which granted this privilege, and the trustees were forced to go to the court, ultimately winning the case, sometimes referred to as the "North Carolina Dartmouth Case."

South Carolina chartered a university in 1801 and authorized the institution to grant degrees in 1805. This institution differed from the other so-called state universities in that control from the beginning was directly under the state. In 1819 the University of Virginia was created by that state with arrangements similar to those in South Carolina. Tennessee had in effect chartered a university in 1794, when Blount College was formed, near Knoxville. It was not until 1879, however, that in a series of mergers the institution emerged as the University of Tennessee. Of the eight early attempts, properly

speaking only the institutions in South Carolina and Virginia could be referred to as state universities.

IV. Clearer Indications of the Distinction: The Two Sectors Begin to Take On Identifiable Characteristics

During the second quarter of the Nineteenth Century new forces were at work, and other decisions were being made that would shape further the educational efforts in the United States. The several states had created "literary funds," in large part as a result of the federal land grants in the late Eighteenth and early Nineteenth Centuries. Increasingly, these funds were being devoted to emerging common school systems, and the older colleges found themselves competing with the common schools for state moneys. Other colleges were also being established, both independent and state-linked. In a "land of colleges" the older colonial foundations no longer maintained a monopoly over higher education. Demands were also growing for a new kind of education, with more emphasis on the practical and less on the classics that still dominated the older colleges.

While none of the older colleges, with the exception of Dartmouth, asserted independence from the states prior to 1850, a sense of distance had begun to develop between the colleges and states. Harvard received its last financial grant from the state of Massachusetts in 1823, in spite of repeated efforts on the part of the trustees to secure support in the subsequent years. But by 1849, the College ceased asking for support. Columbia received a $10,000 grant from New York in 1819, and this similarly was to be the last direct aid from the state to this institution. The college continued to petition the state for assistance. The creation of the University of the City of New York, later New York University, provided additional competition to Columbia. During mid-century the future of Columbia was often in serious doubt, but toward the end of the century, a grant of land, the Botanical Garden at what is presently 48th Street and 5th Avenue and in the Twentieth Century the site of Rockefeller Center, provided the principal endowment for the University. The state granted this property to Columbia in 1814 to encourage the College to move to a downtown location. The last grant of state funds to Yale was in 1831, some $7,000, until after the Morrill Act, when Yale for a short period of time served as the land-grant institution in Connecticut.

New York, although providing no financial assistance for the College, continued to exhibit concern for the development of Columbia. Indeed, the state proposed an inquiry into the affairs of the college in 1853, and in the situtation not unlike that in New Hampshire in 1815, during the following year, 1854, through a senate committee undertook an investigation regarding the status of the college. The finding of the committee was that there had been no violation of the charter, as had been contended by some, and that the charter could not be amended. Efforts were made, however, to expand the curriculum and enlarge the role of the college into that of a university.

Columbia did undertake some modifications and it attempted in the early 1860s to secure state financial aid, but was unsuccessful.

In 1847 Yale College created a new department of Philosophy and the Arts. Plans were advanced in 1856 under a faculty draft of "A Plan for a Complete Organization of the Scientific School connected with Yale College" to develop an affiliated unit offering training in mining, engineering, agriculture, and manufacturing, as well as graduate work in the natural sciences. A fund-raising effort was undertaken, and in the first year of the effort, 1856, Joseph Sheffield, a railroad promoter, contributed $10,000. He continued to provide support and in 1859 provided a site and building for the school and contributed $50,000 to endow three professorships in chemistry, metalurgy, and engineering.[29] By 1861 Sheffield's contributions had totaled over $100,000 and the school was renamed the Sheffield Scientific School. Ultimately, Sheffield contributed more than one million dollars to the enterprise. When the Morrill Act was passed, the faculty of the Scientific School proposed to the legislature that the grant be given to this institution. In 1863 the legislature took action to turn over the interest of the fund, the corpus of which the state continued to control, to the Scientific School. In return for the funds, which amounted to $60,750 a year, the School offered 43 scholarships to Connecticut students. A new State Board of Visitors, which included the governor, lieutenant governor, three senators, and the secretary of the Board of Education, was created to oversee the expenditure of the state funds. Yale continued to serve in effect as the state land-grant institution until 1893, when the efforts of the Connecticut Grange forced the legislature to cut the connection with Yale and devote the funds to Storr's Agricultural College, later to become the University of Connecticut. Yale sued the state on a breach of contract and actually received a cash settlement of $154,604. Ironically, this was the largest grant of funds ever given by the State of Connecticut to Yale.

In 1852 Dartmouth received a bequest of $50,000 to found a scientific department. The Chandler School of Science and Arts opened in the fall of 1852 with 17 students. Earlier, a New Hampshire governor had suggested that a department of agriculture be established at Dartmouth for the benefit of the state. Subsequently, Benjamin Thompson left to the State of New Hampshire his $400,000 estate with the provision that an agricultural college be located on his farm in Durham. This was later to become the University of New Hampshire. After the passage of the Morrill Act, Dartmouth volunteered to be the land-grant college for New Hampshire, but Dartmouth had its enemies as well as its friends within the state, and debates over the use of the land-grant funds continued almost until the federal deadline under which the state had to make use of the funds. Under the Morrill Act provisions the state would have to organize agricultural curricula or an agricultural college by July 1867 or the state would lose the grant. At the last minute the state created the New Hampshire College of Agriculture, but this so-called college included among its nine trustees four appointed by the trustees of Dartmouth College and five by the governor. While this was presumably an independent institution, it operated through the facilities of Dartmouth College and through the use, in large part, of the Dartmouth staff. Dartmouth and the state continued under this arrangement until 1893 when the New Hampshire College

of Agriculture separated from Dartmouth and moved to Durham, where it became at a later date the University of New Hampshire.[30]

At mid-century Harvard found itself involved in an extended series of negotiations with the State of Massachusetts. Threatened with changes in its structure, the College used much the same line of reasoning that the trustees of Dartmouth College had used nearly thirty years before as it held that Harvard was "a charity protected by the charter, to be administered by the Corporation according to the general law of the land." The result of the negotiations was that the role and composition of the Overseers was changed somewhat, but the basic character of the institution was identified as a private enterprise under the direction of the Corporation. Ultimately, in 1865 the public board created in 1851 was dissolved, and the legislature made the alumni the electors of the Overseers. With the availability of the land-grant funds under the Morrill Act, an effort was made to unite Harvard and two other institutions, including the newly created Massachusetts Institute of Technology, into a system of higher education for the state. After considerable debate, the decision was to channel three-tenths of the grant to the Massachusetts Institute of Technology and the remaining seven-tenths to a new institution, the Massachusetts College of Agriculture, which later became the University of Massachusetts.

In any number of ways the distinction between public and private higher education was emerging at mid-century, although college-state alliances of various sorts continued well into the latter part of the Nineteenth Century. Whitehead sees as a significant element in the change the emergence of alumni and their participation in the raising of funds and their displacing of state-elected representatives on institutional boards. The Act of the Massachusetts legislature in 1865 to transfer authority for election of the Harvard Overseers to the alumni appeared to set up a revolution of sort in college government.[31] Other alumni groups began to act, sometimes spontaneously, sometimes encouraged by the administration of the institutions. Williams alumni gained the consent of the trustees to elect representatives in 1868. In July 1871 the Connecticut legislature passed a bill which turned over three-fourths of the state's representation to the alumni; the alumni could elect the six positions formally held by the senators, and only the governor and lieutenant governor would remain as ex officio members.

In the meantime, continued effort was devoted to the establishment of "state" universities. Indiana, Michigan, Missouri, and Wisconsin established institutions between 1820 and 1850, endowed for the most part by lands granted for a university to the states by the federal government. But the institutions had to live on the income from the land grants and tuition fees because they received little direct support from the state legislatures. While the term "state university" might be employed, it is difficult to establish clear public responsibility for higher education before 1850.

V. The Distinction Between Public and Private Sectors Increase

It is only in the last half, and particularly in the last quarter, of the Nineteenth Century that "public" and "private" began to take on significance in the identification of institutions of higher learning in the United States. The sheer expansion of educational opportunities had its effect. The venerable colonial foundations, still the institutions of prestige, had lost their monopoly over higher education. New institutions, among them a group of "civil" and "non-denominational" colleges, were emerging. Old state-college alliances were being further tested, changed, broken. And, in its own way, the Morrill Act of 1862 assisted in sharpening the increasing distinction between public and private institutions, both in encouraging new foundations and inforcing erstwhile state-supported colleges to seek even more support from non-governmental sources. In some instances, as already noted, so-called private institutions served as land-grant institutions, and the funds also provided a means for the states to establish and rejuvenate institutions under more direct legislative control. Some of the already established institutions sought to counteract any competition by volunteering to become the recipients of the land-grant funds, only to be repulsed, and then to turn to other funding sources. In this way, the Land Grant Act not only gave renewed impetus to state efforts, but it also forced states and private institutions to identify more clearly their own directions and source of support. In his able study of college-state relations John Whitehead uses as an example of the way in which older institutions turned from seeking state support to private resources the case of Illinois College under President Julian M. Sturtevant. Even before the passage of the Morrill Act, Sturtevant had written an article for the New Englander entitled "The Claims of Higher Seminaries of Learning on the Liberality of the Wealthy," in which he argued that higher education would be able to survive only if supported by persons of wealth. With the passage of the Land Grant Act, he pointed out the possible detrimental effect upon Illinois College of a rival institution, unless in some way Illinois College could itself become the recipient of the land-grant funds. He was unsuccessful in his efforts, and soon established himself as a champion of the "private college." He argued in additional articles and speeches that private wealth, not state or federal funds, was the proper foundation for higher education.[32]

In Massachusetts the new president of Harvard was moving in the same direction. He opposed the Land Grant Act of 1862 as an unwise piece of legislature which took away the voluntary nature of American education, and he expressed both suspicion and fear of additional involvement of the federal government in education. In 1873, when there was renewed interest in establishing a national university, encouraged by, among other agencies, the National Education Association, at the annual meeting of that association Eliot presented a paper questioning the authority of the association to espouse the idea without securing clearer indication from the membership as a whole and then going on to attack the idea of a national university, supported by taxation. He stated:

Development of the American System of
Higher Education: The Two-Sector Theory

> With the continental nations, it is an axiom that the Government is to do everything and is responsible for everything . . . Americans, on the contrary, maintain precisely the opposite theory, namely, that Government is to do nothing not expressly assigned to it, that it is to perform no function which any private agency can perform as well, and that it is not to do a public good even, unless that good be otherwise unattainable . . . Let us cling fast to the genuine American method--the old Massachusetts method--in the matter of public instruction. The essential features of that system are local taxes for universal elementary education, voted by the citizens themselves; local elected boards to spend the money raised by taxation and control the schools; and, for the higher grades of instruction, permanent endowments administered by incorporated bodies of trustees.[33]

Eliot continued his efforts to build up the endowment of Harvard by his appeal for private support. By 1898 the endowment was nearly $12,000,000 with an annual income of nearly $1,400,000. Harvard had become the major, if not the leading, university in the United States. In no small measure Charles W. Eliot can be given credit for creating the private university.

In the meantime others of the older colleges had begun to develop endowments. By 1866 Columbia, which should have been near bankruptcy, was one of the richest institutions in the United States. It reported a productive endowment of $2,227,541. Harvard's endowment then stood at $1,999,505. And private wealth was not only adding to but creating new institutions. The United States did not have an institution of university status in 1850. It took the combination of philanthropy and educational leadership to create such an institution. And in the later quarter of the Nineteenth Century, new wealth was available.[34] The money of Cornell, Johns Hopkins, Rockefeller, and Clark brought into existence the first great private universities, although Cornell, as a recipient of land-grant funds presented a unique combination of state and private money in the actual creation of a new institution.

Competition, the securing of greater amounts of funds from non-governmental sources, the emergence of the state land-grant institutions, organized alumni support, these and other forces brought a greater self-consciousness to the older private and newer and developing public sector. By 1898 it was possible for the presidents of some of the new state universities to hold a conference to discuss "State Aid to Higher Education." Convening at Johns Hopkins University, one of the new private universities, they examined the historical development of the private and public types of higher education.[35]

The Department of Education, later to become the Bureau and then Office of Education, was created in 1868. The first reports of the Department made

no distinction between public and private education, but simply listed institutions and identified them according to form of control. By 1890, however, the Bureau of Education in its series of circulars published a report on The History of Federal and State Aid to Higher Education, by Frank W. Blackmar, a professor of history at the state University of Kansas. Professor Blackmar, in describing the development of the public sector, observes, "There is a wider differentiation of State and non-State schools than formerly," and "There is a wide separation of church and State in matters of education. The old classical school is supported by the church, while there is a growing tendency on the part of the State to build universities for educational and industrial purposes."[36] From his perspective in 1889 he expresses the conviction that "there will be one well-established State institution or its equivalent in every state, for the promotion of those studies which pertain directly to the political and industrial sides of education."[37] He is quick to note, however, that the creation of state institutions does not signify that non-state institutions should not receive "assistance, encouragement, and protection." He states that no institution of advanced learning can survive on tuition alone and encouragement is needed from the state. The state cannot contend, when it has established and provided for the support of its own university, that it has done its duty to higher education, for to assume such a stance "assumes an imperialism in education which is entirely out of place." While some centralization of education may be needed, it cannot be at the expense of local institutions and non-state schools.[38]

Throughout his essay, while he documents the development of that portion of higher education now most directly supported by public funds and controlled by the state legislatures, he expresses a clear sympathy for the role played by the older colleges, most of whom would then be classified as private. The combination of state protection, private initiative, and benevolence had created a system of higher education for the United States. One indication of the extent to which private initiative was still important in higher education is shown in reference to the Report of the Commissioner of Education for 1885-86, in which the total "productive funds of 345 colleges and universities in 43 states was $49,687,378...the total appropriations for higher education by the several Legislatures was $862,580." Blackmar makes the point that not only does the state recognize the necessity for developing higher educational opportunities, "but it acknowledges that private and sectarian schools are performing work that otherwise would legitimately evolve upon the Government."[39]

Professor Blackmar sees in the emergence of the state system what he calls a tendency among educational institutions toward a division of labor that one finds within industrial concerns. The roles of the classical schools with their four-year courses in philosophy and languages continues to be necessary, but at the same time there is need, according to Blackmar, for institutions that provide instruction in branches relating more directly to the "arts of life," and the development of state institutions with an emphasis upon practical arts and industries "not only supplements our commercial and mechanical activities with intelligence, but it calls into use a large amount of wealth, the wealth of youthful mind-force, which otherwise

might have been lost to the community through the distaste for Greek and Latin and abstract theories."[40] But one should not view the state and non-state institutions as being in conflict. There is no reason for the endowed institutions to work against the state university. To seek complete centralization of education is to limit the effectiveness of institutions. Already at this time, Blackmar is saying that diversity brings about broader and more adequate educational services. Local efforts and diversity of organizations have resulted in the creation of greater opportunities for persons who otherwise would never have found their way into a large centralized university. According to Blackmar, "Facts show us plainly that we have none too much of the higher education, even when the varied forces are all in the field. The State should see to it that no burdens are laid upon educational institutions supported by or representing any class of citizens."[41]

Support for the emerging public institutions was not in all cases immediately secured. Alexander Brody's study documents the struggle in the state of Kentucky. In 1880 the legislature passed a statute imposing a tax for the benefit of the Agricultural and Mechanical College of Kentucky. The statute was immediately challenged as unconstitutional in that Article 2 of the State Constitution provided that "The Common School Fund," together with any funds raised by the state through taxation, should be used for aiding the common schools and for no other purpose. Those opposing the move insisted that the application of the tax to the College was contrary to the intent of the constitution. Suit was brought, and the court at length concluded that the intention of the constitution was not to forbid the legislature from supporting higher educational institutions. It ruled that the legislature could impose a tax in aid of an educational institution even though it was not part of the common school system.[42]

A new constitution was adopted in Kentucky in 1890 and made provision for the support of the College at the same level established earlier, and excluded any other forms of public education until the matter had been approved by a majority vote of the state. In 1904 the state auditor withheld a payment of $15,000, the appropriation for that year to the College, on the grounds that it was unconstitutional. His position was that any appropriation to other than the common schools required a majority vote of the people. In handing down the decision the court addressed the issue of whether the legislature had inherent power to create and support higher educational institutions out of public funds, and it responded that since higher education serves the public purpose, the legislature had this implied right even though there was no expressed constitutional authority to that effect.

Still again the authority of the state was challenged in its effort to create normal schools in 1906. It was only with the legislative act of 1908 creating the state university that the power of the State of Kentucky to create a comprehensive system of public education was determined. The university was built on the nucleus of the Agricultural and Mechanical College, and the use of funds for the new university was challenged, only to have the court rule once again that the state had the authority to create and maintain other than common schools.[43] Court challenges followed in other states in

matters of tax support to higher education in Missouri, New Jersey, and Virginia. These tests centered around the creation of a particular type of school and its support.

VI. The Dual System A Reality: The Two-Sector Theory Accepted as Fact

Apart from early specific court tests in the late 1800s and early 1900s, the position of the state as both responsible for and appropriately involved in higher education had been clearly established. In the foreword to Brody's study prepared for the American Council on Education, Albert Meredith notes, however, the conditions under which this position grew:

> The administration of institutions of higher education occupies a unique position in the government of the state, a position different in almost all its relationships from that of other administrative bodies. In this respect higher education is a new departure in government. It must be remembered that the function of higher education was assumed by the state after its governmental structure was already crystalized. The main reason, however, for the extraordinary position of the university in the American political system was due to the fear of political influence and the desire of the American people to separate the function of education from other functions of government.[44]

He goes on to point out that the public system grew as the historic institutions were no longer able to cope with the educational needs and growing breadth of interest in higher education. This set the task for development of public supported higher education, but it did not necessarily ease the problems involved in establishing systems. In some states the university was provided in the constitution as virtually an independent branch of government. In other states the university was given a degree of independence not unlike that of the older private institutions.

The clear emergence of the significant role to be played by public institutions is indicated in a number of documents, a sample of which may be noted. In 1936 the University of Oklahoma published a symposium under the general title of higher education and society. In the first essay, written by William Bennett Bizzel, whose ten years of administration at the University of Oklahoma is being celebrated by the symposium, reference is made not to cooperation but to the competition between institutions. Classifying colleges and universities under three categories--endowed, church-controlled, and state-supported--Bizzel argues that the three bear very little relationship to each other, and he contends that after a hundred years of experimenting with educational procedures, there has been no effective way of developing cooperative approaches.[45] He is overgeneralizing

a bit, because one hundred years before, in 1836, there simply was no clear distinction regarding the types of institutions that appear to be much more evident in 1936.

When the President's Commission on Higher Education was established in July 1946 and charged with the "task of examining the function of higher education in our democracy and the means by which they can best be performed," the Commission in its report in December 1947 called for rapid expansion in enrollments in higher education based on the principle that education through the fourteenth grade should be made available, tuition-free, as an extension of the common schooling.[46] The Commission placed, as I have already noted, primary responsibility for the expansion on the public sector.

In 1957 the National Education Association of the United States published under the auspices of the Educational Policies Commission a volume entitled Higher Education in a Decade of Decision. This volume accepts the distinction that had by then developed between public and private higher education and refers to this diversity of control as a significant strength of American higher education. It points out that among the 1,855 institutions of higher education then identified, there were public and private institutions, some church-related and others secular in control, some locally controlled and others state-controlled, and a few federally controlled. The report observes that while the publicly and privately controlled institutions are similar in many respects, with common interests and functions, the differences in ultimate control gave to them unique qualities. And this diversity in control insures the continuation of diversity in program.[47]

In 1956, while two-thirds of the colleges and universities were under private control, they enrolled only approximately 40 percent of the students. Observing the trend toward proportionally greater increases in enrollments in public institutions, the report emphasized the importance of maintaining both variety and control, "It is important that the public maintain institutions of higher education in a degree commensurate with the nation's needs; it is equally important that the group of non-governmental institutions be a significant element in the national enterprise."[48] The Commission held that there was little point in arguing the relative merits of public or private control, since both forms of institutions contributed significantly to the nation. The report also observed that the distinction between public and private control was not always absolute. Even private institutions were initially chartered by governmental authority, their finances subject to public regulations, programs influenced by licensing requirements for entry into the professions, and some private institutions carried on their research and training under substantial government contract and subsidy. Some public institutions maintained sizable endowments and along with private institutions were responsive to the influence of non-governmental agencies such as alumni, professional and scholarly bodies and voluntary accrediting agencies.

Thus, by the middle of the Twentieth Century, the dual system (public/private), the two sectors, which was only faintly being perceived at the middle of the Nineteenth Century was accepted as a long-standing characteristic of American postsecondary education. And the origins of the concept had almost been forgotten. The "fact" of the two sectors was simply accepted--and defended. The relationship between the two parts of the duality had, however, shifted in the 1950s, and whereas the private sector had enrolled more students into the 1940s, the public sector was rapidly outdistancing the independent institutions, and as I noted in the beginning paragraphs of this paper, during the 1970s the focus of discussion was on how to preserve a vital private sector.

VII. The Evolutionary Process Continues: New Shape for the Two-Sector Theory

I have included in the title of this paper the words "The Two-Sector Theory." In applying the term " theory" I am not proposing that the two sectors are less than "real." Rather, I am employing the term "theory" in the literal sense of looking at and contemplating a structure[5] from the Greek term theorein, which means "to look at," "behold,""contemplate." Formulating a theory is to establish a coherent set of principles as a frame of reference for further inquiry. One seeks to identify relationships and/or underlying concepts. Through a review of the historical developments I have attempted to understand the bases on which we have come to categorize institutions as "public" and "private." I do not imply thereby any greater or lesser reality to the distinction; it is enough that we make the distinction and discuss and debate on the basis of the distinction.

Now, what generalizations, if any,are possible as we reflect on the evolution of the American postsecondary system over nearly three-and-one-half centuries, from 1636 to the close of the 1970s? The major generalization I find is that the American "system," such as it is, is the result of an evolutionary process. There was no grand design established in the beginning. There is still no grand design--although there are increasing pressures at state and federal levels to rationalize the structure, to identify some overall design and purpose in postsecondary education in the United States.[48] In these three-and-one-half centuries we have seen in education much the same process that brought the colonies into a confederation and the states into a federal union and that has been making of the federal union a nation. It is perhaps a mistake[49] that we impute more design into the challenge-response process than we ought. There is much ambiguity and fuzziness in the way in which we characterize institutions and groups of institutions. A review of the historical development suggests that we ought not be overly surprised at the ambiguity. The "system" was conceived, born and nurtured in ambiguity. Daniel Boorstin has said it well as he describes the way in which the colonial colleges took on the authority to grant degrees:

> The history of colonial colleges is one of the most remarkable instances of the triumph of legal practice over theory and the needs of the community over the abstruse distinctions of professional lawyers . . . . If the sharp English distinction between a properly-incorporated, degree-granting monopoly called a "university" and all other types of institutions had been successfully transplanted here. . . the history of American higher education--and possibly of much else in American culture--might have been very different.[50]

The colleges did not press the matter, nor did the legislatures. Degrees were offered. Strictly speaking,the action was illegal, but the English universities subsequently recognized the graduates of Harvard as holding valid degrees.

Clearly, the initial impetus for higher education in America came from groups of individuals who for a variety of reasons sought to establish collegiate schools and to promote values which they considered important. Colonial governments were involved to greater or lesser degrees in initiating the efforts, but with hardly an exception viewed the efforts of worthy of support and advancement. The colonial governments themselves were largely independent and voluntary societies with limited and infrequent communication with the mother country. This early sense of independence is perhaps the genius of the "system," for from the beginning the colleges maintained independence from the civil government while enjoying the support and protection of that same government. As a Swedish visitor wrote in his description of education in the United States in the middle of the Nineteenth Century," . . the higher branches of instruction have been left principally to institutions of a more private character, in regard to which, although they enjoy a certain measure of support, and are subjected to public control, the State only acts as a protector of private rights." [51]

From these small beginnings and from local initiative has developed one of the most extensive "systems" of higher education in the Western world. The independence of action characteristic of the early established higher institutions has been a singularly creative force in the evolution of the American "system." Institutional variation in size, mission and program has been the identifying characteristic of higher education in the United States. Rather than a small number of large and centrally located universities, we have a large number of widely dispersed and variegated institutions.

The dispersion and variation among institutions has not been an unmixed blessing, but the dispersion and variation has provided the setting for resistance to changing political pressures while allowing at the same time for the cultivation of social interests among many different constituencies. This sense of independence that characterized the earliest foundations, later to be described as the "private" sector, set a pattern and established the same expectation for autonomy for the "public" sector as it emerged. Public institutions probably have been able to enjoy a greater measure of autonomy within the climate of the respective states because of the heritage of freedom established earlier by the private sector and because the private sector remains as a symbol of that independence.

But freedom of action can also result in lack of responsiveness to new and legitimate interests. While it is a vast oversimplification of history to suggest that the public sector emerged as a response to broader social demands, the public sector has been identified with more popular education, fewer restrictions on attendance and less concern over what is "appropriate" collegiate level instruction. Yet, insofar as the public and private sectors have come to represent different approaches and different constituencies, the tension, it seems to me has been creative.

Development of the American System of Higher Education: The Two-Sector Theory

As long as higher education was limited in scope and responsbility, and as long as the commitment was to a limited portion of the population, private resources, augmented in part by the civil government's occasional assistance and continuing encouragement, could meet the educational requirements of the state and of the nation. But, particularly after the Civil War, higher education grew in popularity, and the demands on the enterprise outgrew the potential of private citizens, however great their intentions, to maintain and support a sufficient number of institutions. As higher education became an extension of the common schooling, no group of private institutions, however, strong could possibly respond to the requirements. The development of the public sector was both inevitable and necessary. Yet, a Daniel Coit Gilman could question the ability and resoluteness of the state and federal governments to provide adequate support for genuine university education:

> We should look for the liberal endowment of universities to the generosity of wealthy individuals. It is doubtful whether the national government, or the government of any State, will ever provide funds which will be adequate for the highest education. . . . Were any legislative body to appropriate a sufficent financial support, there is nothing in the tendencies of modern politics to show that the representatives of the people, as they are in these days elected, would have the wisdom to mark out the pathway of a great university.[52]

So spoke the first president of Johns Hopkins University at the two hundred and fiftieth anniversary of Harvard, 1886. Frank Blackmar, writing in 1890, was a bit more sanguine, as he expressed the conviction that "there will be one well-established State institution or its equivalent in every State, for the promotion of those studies which pertain directly to the political and industrial sides of education."[53] At the same time he called for the "assistance, encouragement and protection" for non-State institutions.

But the State did enter, slowly at first, but decisively. The world of the early Twentieth Century was different from that of the late Nineteenth Century, and the demands for and expectations for higher education were different. In the latter portion of the Twentieth Century higher education has become an instrument not only of the social purposes of communities and states but of the nation as a whole. In this context is is inevitable that the major growth should be in institutions supported most directly with tax monies.

It is not that individuals and groups did not try to respond to broad based expressions of need. Early in the Nineteenth Century literally hundreds of new colleges were established. These institutions, "presuming to offer the whole citizenry access to the most elevated and most difficult brances of learning, multiplied in numbers without precedent. . ."[54] Boorstin calls these "Booster Colleges," and they were born by the hundreds and died by the humdreds, with 80 percent of those founded before the Civil War no longer in existence by the middle of the Twentieth Century.

Being all things to all people was no guarantee of permanence. The instant colleges of the early 1800s, with their instant programs, came and went with incredible rapidity. Yet, to be responsive is not in itself to be despised or

to be discounted. There may be a fine point of judgment between being so single-minded in mission as to fail to move with the times and to respond in such a way as to lose all sense of mission. Yale is often censured for issuing its defense of the classics in 1828, but Yale was also to create two decades later a Scientific School that was preeminent in its day and became the unit to offer the first Ph.D.s in America.

Now, in the last decades of the Twentieth Century, we have a broad range of opportunities in higher education. Ours is a "system," however, that has evolved and continues to evolve. The terms "public" and "private" are applied to different parts of this system. The terms are useful, even if frustratingly imprecise. Daniel Levy's able monograph documents the frustrating imprecision; and he seems to be exibiting a bit of his own frustration as he states, "No criteria have appeared which consistently distinguish universities which we call private from those we call public."[55] Yet, no other set of terms quite fills the need that these terms apparently fill. Levy suggests the use of multiple continua and locating institutions and systems in relation to one another on these continua. The scheme is useful for analysis. Yet, for my purpose I am not sure that greater precision in definition is possible -- or useful. After all, the pattern of the individual lay board of control was early established and informed the development of both private and public institutions. The public institutions used the same type of control mechanism as did the earlier private institutions. Except in terms of where the ultimate reporting is to be made--and this may be a critical element--the concept of the lay board is little different in public institutions from private institutions. As to financing, government funds have been channeled in many ways to so-called private institutions, and public institutions build trusts and endowments -- both sharing in a common heritage of appealing to a variety of sources for support. As to curriculum, there are some variations in that four-year "liberal arts" colleges tend to be under private control, but experimentation is to be found in public as well as private institutions. The point is, the "system" grew together, public and private, borrowing from each other. Both served and continue to serve the public. In the late Nineteenth Century Charles W. Eliot argued for continued private funds for the support of university education, labeling it the"good old Massachusetts way." He was himself tremendously successful in his appeals, moving the endowment from barely $2 million at the beginning of his administration to over $20 million when he retired. He built a great university with a world reputation, but he saw Harvard no less having a concern for the public interest.

Alexander Brody, in his study for the American Council on Education published in 1935, noted that all institutions of higher education perform a function which is essentially public in character, that the only distinction is that which occurs "when the state assumes the educational function directly by creating an institution of its own in the form of a state university."[56] Under these conditions control is clear and the state itself,"in its political capacity, is engaged in the function of higher education." While Levy would not be satisfied with this distinction, I wonder if Brody has not identified the critical element. The state, even with a lay board, may assumed direct control of the institution it has created--even if it has to cut through prior constitutional provisions through amendments. Such is not to be done capriciously, because the tradition of the lay board -- through the long history of the private sector -- is not easily

to be cast aside. But the political control over an institution created by the state is potentially greater than over an institution created by a group of private citizens and chartered by the state.

But, I would not even argue the distinction of control. Indeed, I might be more prepared to accept the tautology that "Private is what private says." For there is a sense in which the process continues in which "privateness" is defined and redefined under changing conditions. Levy refers to William F. Buckley, Jr. and the suggestion that Yale donate itself to Connecticut, for in the process nothing much would be different. But, if Yale were to merge with the University of Connecticut"something private would be lost."[57] We cannot surrender the category of public and private easily. Perhaps there is something more profound in this observation than is intended. The stance of independentness that has been maintained, more or less successfully, by the private sector may be necessary in order to permit the public institutions to maintain their own heritage of independence.

I began this section by saying that the major generalization from the historical review is that the American "system" is the result of a long evolution. During this evolution neat distinctions did not provide the basis for developments. While private higher education is challenged to "prove" its distinctiveness and thus substantiate the basis for continued support, and while private institutions try to respond to the challenge, I would submit that the evolution of the "system" does not require this approach. Indeed to prove distinctiveness on the part of private -- or public -- institutions is to fall into a trap. Rather, let us accept the reality that a variety of institutions have come into existence, have served different constituencies and can probably continue to do so in the future. What is important is to accept the fact that the institutions are here. Some will continue. Some, private -- and public--will not survive. The future ought not to depend on distinctiveness but on how well institutions do their respective jobs.[58]

1. In a federal system such as that of the United States, diversity of institutions, higher educational or otherwise, would seem to be important. A federal system requires some degree of differentness, some measure of disagreement. In the United States a monolithic system of education is probably unacceptable. The various proposals for maintaining a dual system need continued exploration and refinement. I do not have a neat solution to the balance of autonomy and accountability in a society in which government funds are increasingly used and needed. But "privateness" however expressed needs to be maintained.

2. The lay board of control has been one of the more significant elements in aiding institutions to retain a measure of autonomy. With all of lacks that boards may have, they are still the major instrument for maintaining independence. Perhaps we need to do even more to help board members grasp the full import of their roles.

3. The colleges we have exist here and now. The private colleges are a resource along with the public colleges. Those which serve well (as is true of the public) should be maintained. Ask not that they be more innovative; ask only that they serve well and that they find a responsive constituency. Keep them as independent as possible. John Gardner has made a good case for the role of private iniative in a democratic society.[60]

NOTES

1. An earlier version of this paper was presented in draft form at a workshop at the University of Denver, July 31, 1979, on the future of private higher education.

2. One of the more recent versions of the classification appears in A Classification of Institutions of Higher Education, Revised Edition. A Report of the Carnegie Council on Policy Studies in Higher Education (Berkeley: The Carnegie Foundation for the Advancement of Teaching, 1976).

3. Report of the Commissioner of Education for the Year 1895-96, Volume 2 (Washington, D.C.: Government Printing Office, 1897), p. 1918.

4. President's Commission on Higher Education, Higher Education for American Democracy, Volume I (New York: Harper and Brothers, 1948), p. 37. The Harper edition uses the plates of the Government Printing Office edition earlier published in December 1947.

5. The Council of State Governments, Higher Education in the Forty-Eight States (Chicago: The Council of State Governments), pp. 173-174. The Council of State Governments at the request of the Executive Committee of the Governors' Conference undertook a study of higher education to be reported at the annual meeting of the Conference in 1952. At that point in time, this was one of the more extensive reviews of higher education. The tables, showing the trends in enrollment, state-by-state, reported the resident enrollment, regular session at 1,196,922 for private institutions and 1,242,988 for public institutions in 1950, a difference of just over 46,000; public institutions enrolled just under 51 percent of the total.

6. One of the first state surveys of the place of private institutions in statewide planning was that requested by the Missouri Commission on Higher Education, The Report on the Status of Private Higher Education in the State of Missouri by Allan O. Pfnister and Gary Quehl (Jefferson City, Mo.: Missouri Commission on Higher Education, 1967). See also Allan O. Pfnister, "Developing Relationships between Public and Private Higher Education," New Directions in Statewide Planning and Coordination: Proceedings of the 19th SREB Legislative Work Conference, September 2-5, 1970 (Atlanta: Southern Regional Education Board, 1970) pp. 38-47.

7. Roschwalb, Jerold, "Private vs. Public: Conflict and Compromise," AAHE Bulletin (November 1979), p. 5.

8. Carnegie Commission on Higher Education, The Capitol and the Campus (New York: McGraw-Hill Book Co., 1971), p. 65.

9. Carnegie Council on Policy Studies in Higher Education, The States and Private Higher Education (San Francisco: Jossey-Bass Publishers, 1977), p. 62.

10. Breneman, David W. and Chester E. Finn, Jr. (eds.), Public Policy and Private Higher Education (Washington, D.C.: The Brookings Institution, 1978), pp. 423-424.

11. Brody, Alexander, The American State and Higher Education: The Legal, Political and Constitutional Relationships (Washington, D.C.: American Council on Education, 1935), pp. 19-20.

12. Blackmar, Frank W., The History of Federal Aid to Higher Education in the United States. Bureau of Education Circular of Information No. 1, 1890 (Washington, D.C.: Government Printing Office, 1890), p. 21.

13. Whitehead, John S. The Separation of College and State (New Haven: Yale University Press, 1973). In his analysis of Columbia, Dartmouth, Harvard and Yale through the years 1776-1876, John Whitehead characterizes the relationship between college and state as an "alliance." The term seems accurately to reflect the flexible arrangements worked out between college and state. Jurgen Herbst challenges some of the generalizations made by Whitehead but finds the treatment a provocative re-examination of the history of American higher education. See Jurgen Herbst, "American College History: Re-Examination Underway," History of Education Quarterly XIV (Summer 1974), pp. 259-265.

14. See Allan O. Pfnister, "Politics of Decision Making in Relation to Education in Comparative Perspective, Unity and Diversity as a Problem--Centralization and Decentralization in Decision Making: The Lay Board of Control," a paper presented at the Third World Congress of Comparative Education Societies, London, June 1977. As University of Denver Occasional Papers in Higher Education, No. 11 (Denver: University of Denver Higher Education Program, 1977) listed as ERIC ED 16566.

15. Whitehead, op. cit., p. 15.

16. Boorstin, Daniel J. The Americans: The National Experience (New York: Vintage Books, 1965), p. 394.

17. Ibid.

18. Ibid., p. 402.

19. Hinsdale, B.A., "Documents Illustrative of American Educational History," Report of the Commissioner of Education for the Year 1892-93, Volume 2 (Washington D.C.: Government Printing Office, 1895), pp. 1315-1316. The Constitution of Massachusetts, June 15th, 1780, Part II, Chapter V, Section 2.

20. Hofstadter, Richard and Wilson Smith (eds) American Higher Education: A Documentary History, Volume I (Chicago: University of Chicago Press, 1961), p. 147.

21. Whitehead, op. cit., p. 61.

22. Rudolph, Frederick, The American College and University (New York: Vintage Books, 1962), p. 211.

23. Boorstin, op. cit., p. 160.

24. Ibid.

25. Ibid., p. 153.

26. Ibid., p. 155.

27. Whitehead, op. cit., p. 50.

28. Blackmar, op. cit., p. 264.

29. Whitehead, op. cit., p. 173.

30. Whitehead, op. cit., p. 184.

31. Ibid., p. 207.

32. Ibid., pp. 227 ff.

33. James, Henry, Charles W. Eliot, President of Harvard University, 1869-1909, Volume 1 (Boston: Houghton Mifflin Co., 1930), p. 325.

34. Vesey, Laurence, The Emergence of the American University (Chicago: University of Chicago Press, 1965), p. 3.

35. Whitehead, op. cit., pp. 2-3.

36. Blackmar, op. cit., p. 27.

37. Ibid.

38. Ibid., p. 28.

39. Ibid., p. 26.

40. Ibid., p. 51.

41. Ibid., p. 36.

42. Brody, op. cit. pp. 51-52.

43. Ibid., p. 56.

44. Ibid., p. v.

45. Adams, Arthur B., et al, Higher Education and Society: A Symposium (Norman, Oklahoma: University of Oklahoma Press, 1936), p. 14.

46. President's Commission on Higher Education, op. cit., p. 37.

47. Educational Policies Commission, Higher Education in a Decade of Decision (Washington, D.C.: National Education Asssociation of the United States, 1957), p. 16.

48. See in particular the publication of the Carnegie Commission on Higher Education, Purposes and Performance of Higher Education in the United States (New York: McGraw-Hill Book Co., 1973). Also a "Working Paper" circulated in August 1977 by the Federal Inter-Agency Committee on Education observed that FICE had the responsibility for developing "a single, administration-wide recommendation for what our national Policy should be."

49. See Levy, Daniel, "The Private-Public Question in Higher Education: Distinction or Extinction?" Yale Higher Education Research Group Working Paper, YHERG-37 (New Haven: Yale University Institution for Social and Policy Studies, 1979). This is a very useful analysis of the basis (or lack of basis) for the distinction between private and public universities. While the major purpose of the paper is to show the shortcomings of the distinction, the author concludes that the distinction cannot be completely discarded and suggests multiple continualapproach. I would venture that the historical review of the evolution of the American systems suggests that one should not expect to find clear distinctions.

50. Boorstin, Daniel J. The Americans: The Colonial Experience (New York: Vintage Books, 1958), pp. 173 ff.

51. Siljeström, P. A. Educational Institutions of the United States. Translated by Federica Rowan (London: John Chapman, 1853), p. 310. The volume was reprinted by Arno Press in 1969 from a copy in the library of Teachers College, Columbia University, and it is from the reprinted version, which reproduces the original pages, that the citations are taken.

52. Gilman, Daniel Coit. University Problems in the United States (New York: The Century Company, 1898), p. 155.

53. Blackmar, op. cit., p. 27.

54. Boorstin, Daniel J. The Americans: The Democratic Experience (New York: Vintage Books, 1974), p. 480.

55. Levy, op. cit., p. 15.

56. Brody, op. cit., p. 79.

57. Levy, op. cit., p. 18.

58. See Breneman and Finn, op. cit., p. 6, "Supporters of private higher education have not generally advanced sophisticated economic arguments to bolster their case, but have maintained that private institutions contribute in important and unique ways to diversity, independence, quality, efficiency . . . . While such arguments are generally persuasive, their acceptance does not lead directly or unambiguously to clear public policies . . ." On the other hand, the Carnegie Council report, The States and Private Higher Education, op. cit., pp. 7-8, and in other portions of the book, uses this approach to defend continued support of private higher education.

59. See Allan O. Pfnister, "Formative Influences in the Evolving Structure of American Postsecondary Education," University of Denver Occasional Papers in Higher Education, No. 11 (Denver: University of Denver Higher Education Program, 1978), ERIC ED 165665. Paper presented at the Fourth International Conference on Higher Education, University of Lancaster, U.K., August 1978.

60. Gardner, John W., "The Private Pursuit of Public Purpose," Chronicle of Higher Education (January 8, 1979), p. 96. He observes that "Virtually every far-reaching social change in our history has come from the private

sector; we must find ways to preserve that kind of independence."

-0-

Association for the Study of Higher Education, 1980 Annual Meeting, March 4-5, 1980, Washington, D.C.